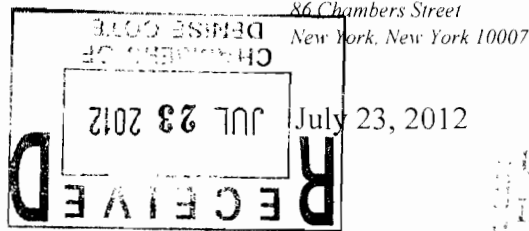




U.S. Department of Justice

United States Attorney  
Southern District of New York



**BY HAND**

The Honorable Denise Cote  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007-1312

Re: Pollard v. U.S. Department of Justice  
Docket No. 12-cv-3229 (DLC)

**MEMO ENDORSED**

Dear Judge Cote:

This Office represents defendants United States Department of Justice and the United States Department of Defense (together, the "Government") in the above-referenced action. On or about April 24, 2012, plaintiffs Jonathan J. Pollard and Jacques Semmelman (together, "Plaintiffs") filed a complaint for injunctive relief under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, seeking five classified documents and all documents related to any declassification review of one of the classified documents. The Government filed an answer to the complaint on June 25, 2012. I write now on behalf of both parties in anticipation of the initial pretrial conference scheduled for July 27, 2012 and, specifically, with respect to the Court's instructions for the parties to prepare a proposed schedule for any discovery and motions. The parties jointly respectfully request permission to postpone the preparation of such a proposed schedule until mid-October because the Government has taken action which may narrow the scope of, or eliminate altogether the need for, discovery and motions.

During the parties' Rule 26(f) conference on July 12, 2012, the Government informed Plaintiffs that it had located four of the five requested classified documents and that the appropriate agencies were in the process of undertaking a review of the documents to determine whether any portions should be declassified. With respect to the fifth classified document—a sealed portion of a court transcript—the Government has located the stenographer's notes and is continuing to search for the original transcription, if any such transcription exists. The Government further informed Plaintiffs that the declassification review has been prioritized and expedited by the agencies and is expected to be complete within 90 days. The Government has also undertaken a search for documents related to any prior declassification review with respect to the document Plaintiffs identified.

The parties respectfully submit that they will be in a better position to set reasonable discovery and briefing schedules, if necessary, once they know what, if any, portions of the requested documents will be produced or withheld pursuant an exemption under FOIA. Thus, the parties respectfully request permission from the Court to conduct another Rule 26(f)

conference among themselves in mid-October and to submit a proposed discovery and briefing schedule to the Court shortly thereafter.

The parties are, however, prepared to appear at the July 27, 2012 conference should Your Honor still wish to meet with us at that time.

Thank you for your attention to this matter.

Respectfully submitted,  
PREET BHARARA  
United States Attorney



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cc: Eliot Lauer, Esq. (by e-mail)  
Jacques Semmelman, Esq. (by e-mail)

*Granted. Conference is adjourned to  
October 19 at 11:00 am.*

*James Cole  
July 24, 2012*